Priddis Music, Inc. v. Trans World Entertainment Corporation Doc. 58

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October 19, 2006

VIA FACSIMILE and FIRST CLASS MAIL

Michael Hall, Esq.
McNamee, Lochner, Titus & Williams, P.C.
677 Broadway, 5th Floor
Albany, New York 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Dear Mr. Hall:

I write in response to your letter filed today with the Court. Initially, I am uncertain as to why you chose to file the letter with the Court as opposed to simply contacting us, certainly a better strategy were legitimate negotiation your concern. Further, contrary to your assertion, Trans World has satisfied all of its obligations under the Uniform Pretrial Scheduling Order and the September 28, 2006 Order, both of which require the parties to negotiate in good faith via specific proposals prior to the date of the settlement conference. Trans World fulfilled this obligation with a reasonable Offer of Judgment, made in July.

With regard to your latest proposal, the Uniform Pretrial Scheduling Order specifically requires from Plaintiff a "**realistic demand**" (emphasized in original). As your latest demand has no connection to any demonstrable damages, it is patently inadequate. Indeed, the Uniform Pretrial Scheduling Order requires a counteroffer only "if appropriate." In our view, your continued attempt to advance settlement numbers that are untethered either to the strength of your claims or any actual damages suffered by your client is not appropriate and thus did not warrant a counterproposal. Indeed, throughout discovery, Trans World attempted to ascertain the basis for the damages claimed by your client, to no avail. Trans World simply will not engage in discussions that include the unreasonable and unfounded numbers so far advanced by you.

Dockets.Justia.com

That being said, Trans World remains committed to working in good faith toward a reasonable settlement in this matter. To that end, Trans World looks forward to the Settlement Conference tomorrow and is prepared to negotiate in good faith toward that goal. It is our sincere hope that you and your client are prepared to do the same.

Sincerely,

Robert Tietjen

RCT/cap

cc: The Honorable David R. Homer (via e-file)